

(5) Agrees to abide by the rules of the M+C organization after they are disclosed to him or her in connection with the election process.

(b) An M+C eligible individual may not be enrolled in more than one M+C plan at any given time.

[63 FR 35071, June 26, 1998; 63 FR 52611, Oct. 1, 1998]

#### § 422.54 Continuation of enrollment.

(a) *Definition. Continuation area* means an additional area (outside the service area) within which the M+C organization furnishes or arranges for furnishing services to its continuation-of-enrollment enrollees. Enrollees must reside in a continuation area on a permanent basis. A continuation area does not expand the service area of any plan.

(b) *Basis rule.* An M+C organization may offer a continuation of enrollment option to enrollees when they no longer reside in the service area of a plan and permanently move into the geographic area designated by the M+C organization as a continuation of enrollment area. The intent to no longer reside in an area and permanently live in another area is verified through documentation that establishes residency, such as, driver's license, voter registration.

(c) *General requirements.* (1) An M+C organization that wishes to offer a continuation of enrollment option must meet the following requirements:

(i) Obtain HCFA's approval of the continuation area, the marketing materials that describe the option, and the M+C organization's assurances of access to services.

(ii) Describe the option(s) in the member materials it offers and make the option available to all enrollees residing in the continuation area.

(2) An enrollee who moves out of the service area and into the geographic area designated as the continuation area has the choice of continuing enrollment or disenrolling from the plan.

(d) *Specific requirements—(1) Basic benefits.* The M+C organization must, at a minimum, provide or arrange for the Medicare-covered benefits described in § 422.101(a).

(2) *Reasonable access.* The M+C organization must ensure reasonable access in the continuation area—

(i) Through contracts with providers, or through direct payment of claims that satisfy the requirements in § 422.100(b)(2), to other providers who meet the requirement in subpart E of this part; and

(ii) By ensuring that the access requirements of § 422.112 are met.

(3) *Reasonable cost-sharing.* For services furnished in the continuation area, an enrollee's cost-sharing liability is limited to—

(i) The cost-sharing amounts required in the M+C plan's service area (in which the enrollee no longer resides) if provided by contract providers;

(ii) The cost-sharing amounts required by the continuation area plan if provided through agreements with another M+C plan; or

(iii) The amount for which a beneficiary would be liable under original Medicare if noncontracting providers furnish the services.

(4) *Protection of enrollee rights.* An M+C organization that offers a continuation of enrollment option must convey all enrollee rights conferred under this rule, with the understanding that—

(i) The ultimate responsibility for all appeals and grievance requirements remain with the organization that is receiving payment from HCFA; and

(ii) Organizations that require enrollees to give advance notice of intent to use the continuation of enrollment option, must stipulate the notification process in the marketing materials.

(e) *Capitation payments.* HCFA's capitation payments to all M+C organizations, for all Medicare enrollees, are based on rates established on the basis of the enrollee's permanent residence, regardless of where he or she receives services.

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#### § 422.56 Limitations on enrollment in an M+C MSA plan.

(a) *General.* An individual is not eligible to elect an M+C MSA plan—

(1) If the number of individuals enrolled in M+C MSA plans has reached 390,000;

(2) Unless the individual provides assurances that are satisfactory to HCFA that he or she will reside in the United States for at least 183 days during the year for which the election is effective; or

(3) On or after January 1, 2003, unless the enrollment is the continuation of an enrollment in effect as of that date.

(b) *Individuals eligible for or covered under other health benefits program.* An individual who is enrolled in a Federal Employee Health Benefit plan under 5 U.S.C. chapter 89, or is eligible for health care benefits through the Veteran's Administration under 10 U.S.C. chapter 55 or the Department of Defense under 38 U.S.C. chapter 17, may not enroll in an M+C MSA plan.

(c) *Individuals eligible for Medicare cost-sharing under Medicaid State plans.* An individual who is entitled to coverage of Medicare cost-sharing under a State plan under title XIX of the Act is not eligible to enroll in an M+C MSA plan.

(d) *Other limitations.* An individual who receives health benefits that cover all or part of the annual deductible under the M+C MSA plan may not enroll in an M+C MSA plan. Examples of this type of coverage include, but are not limited to, primary health care coverage other than Medicare, current coverage under the Medicare hospice benefit, supplemental insurance policies not specifically permitted under § 422.104, and retirement health benefits.

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**§ 422.57 Limited enrollment under M+C RFB plans.**

An RFB society that offers an M+C RFB plan may offer that plan only to members of the church, or convention or group of churches with which the society is affiliated.

**§ 422.60 Election process.**

(a) *Acceptance of enrollees: General rule.* (1) Except for the limitations on enrollment in an M+C MSA plan provided by § 422.62(d)(1) and except as specified in paragraph (a)(2) of this section, each M+C organization must accept without restriction (except for an M+C RFB plan as provided by § 422.57)

individuals who are eligible to elect an M+C plan that the M+C organization offers and who elect an M+C plan during initial coverage election periods under § 422.62(a)(1), annual election periods under § 422.62(a)(2), and under the circumstances described in § 422.62(b)(1) through (b)(4).

(2) M+C organizations must accept elections during the open enrollment periods specified in § 422.62(a)(3), (a)(4), and (a)(5) if their M+C plans are open to new enrollees.

(b) *Capacity to accept new enrollees.* (1) M+C organizations must submit information on enrollment capacity of plans they offer by May 1 of each year as provided by § 422.306(a)(1).

(2) If HCFA determines that an M+C plan offered by an M+C organization has a capacity limit, and the number of M+C eligible individuals who elect to enroll in that plan exceeds the limit, the M+C organization offering the plan may limit enrollment in the plan under this part, but only if it provides priority in acceptance as follows:

(i) First, for individuals who elected the plan prior to the HCFA determination that capacity has been exceeded, elections will be processed in chronological order by date of receipt of their election forms.

(ii) Then for other individuals in a manner that does not discriminate on the basis of any factor related to health as described in § 422.110.

(c) *Election forms.* (1) The election form must comply with HCFA instructions regarding content and format and have been approved by HCFA as described in § 422.80. The form must be completed and signed by the M+C eligible individual (or the individual who will soon become entitled to Medicare benefits) and include authorization for disclosure and exchange of necessary information between the U.S. Department of Health and Human Services and its designees and the M+C organization. Persons who assist beneficiaries in completing forms must sign the form and indicate their relationship to the beneficiary.

(2) The M+C organization must file and retain election forms for the period specified in HCFA instructions.

(d) *When an election is considered to have been made.* An election in an M+C